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**Panel Finds Japanese Testing Requirements
Violate WTO Rules**

A dispute settlement panel of the World Trade Organization has found that Japanese testing requirements for agricultural products violate Japan's WTO obligations. The panel's report, which was issued today, should result in new opportunities for U.S. exporters of apples, nectarines, cherries, walnuts. This is the third successful outcome for the United States in disputes against Japan at the WTO. The earlier cases related to differential taxation policies (distilled spirits) and intellectual property (sound recordings).

In response to the WTO panel's decision, U.S. Trade Representative Charlene Barshefsky said, "This case shows the WTO distinguishes between legitimate science-based testing versus thinly-veiled protectionist measures. The panel ruling establishes that there is no scientific basis for the Japanese varietal testing regime. We fully expect that Japan will honor its WTO obligations and open its market to U.S. apples and other produce."

The dispute settlement panel report accepts the U.S. position on Japan's varietal testing requirement. Japan requires repeated testing of established quarantine treatments each time an additional variety of an already approved commodity is presented for export. The panel has recognized that Japan's varietal testing requirement is not supported by scientific evidence, is more trade restrictive than required and is non-transparent. It is therefore inconsistent with Articles 2.2, 5.6 and Annex B of the Agreement on Sanitary and Phytosanitary Measures.

Background

Japan requires repeated testing of established quarantine treatments each time that a new variety of an already approved commodity is presented for export. For example, Japan has approved red and golden delicious apples for export, but is requiring that the quarantine treatment be retested for efficacy on several other varieties. While Japan is within its rights to require treatment of agricultural commodities that are hosts for quarantine pests, this redundant testing requirement has no scientific

basis and serves as a significant barrier to market access. Completion of the testing for each variety takes a minimum of two years and is very costly to the United States Government and U.S. producers.

The fruits of immediate export concern are apples, cherries, walnuts and nectarines. Japan asserts that these commodities may be hosts to codling moth, a pest not known to occur in Japan.

Japan “liberalized” its trade for apples in 1971. However, since that time, GOJ officials have continually denied permission for the importation of U.S. apples, allegedly due to phytosanitary concerns. It was only in 1994 that the first apples were actually approved for import.